

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DONALD L. DAVIS (deceased))	
Claimant)	
VS.)	
)	
INDUSTRIAL MAINTENANCE)	Docket No. 1,002,179
Respondent)	
AND)	
)	
KS EMPLOYERS WORK COMP FUND)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier appealed the August 12, 2003 Award entered by Administrative Law Judge (ALJ) John D. Clark. On November 4, 2003, the Appeals Board (Board) placed this case on its summary calendar to be decided without oral argument.

APPEARANCES

William F. Cummings of Wichita, Kansas, appeared for the surviving children of the decedent. Edward D. Heath, Jr., of Wichita, Kansas appeared for the respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Board considered the record and adopts the stipulations that are listed in the Award.

ISSUES

This is a claim for death benefits brought by the surviving dependent's of Donald Lewis Davis. Mr. Davis died on August 21, 2001, as a result of an asthma attack at work.

The ALJ found the fatal injury was work-related and awarded benefits to Mr. Davis' two children. The respondent and its insurance carrier (respondent) apparently do not dispute the compensability of this claim because the only issue raised in their Application for Board Review and Docketing Statement is "The amount of the Award."¹ Respondent neither submitted a brief to the Board nor a submission letter to the ALJ. Claimant's brief to the Board simply asks that the ALJ's Award be affirmed.

"Appellant has filed no brief in support of its appeal. Since Appellant has not briefed the issue appealed, or disputed any of Judge Clark's findings, appellee requests that [the] Board approve Administrative Law Judge John D. Clark's Award in the above captioned case."²

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board will not attempt to guess or speculate as to what error respondent is alleging. In the absence of any specific allegation of error or explanation of the relief sought by the appellant, the Board finds that the ALJ's Award should be affirmed.

The Board agrees with the analysis of the evidence and law as set forth in the Award and adopts the ALJ's findings, conclusions and orders as its own.

Award

WHEREFORE, the Award entered by Administrative Law Judge John D. Clark dated August 12, 2003, is affirmed.

IT IS SO ORDERED.

¹ Application for Board Review and Docketing Statement (filed Aug. 25, 2003).

² Appellee's Letter/Brief (filed Oct. 21 2003).

Dated this ____ day of December 2003.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: William F. Cummings, Attorney for Claimants
Mark J. Lazzo, Attorney for Claimants
Edward D. Heath, Jr., Attorney for Respondent and its insurance carrier
John D. Clark, Administrative Law Judge
Anne Haught, Workers Compensation Acting Director